

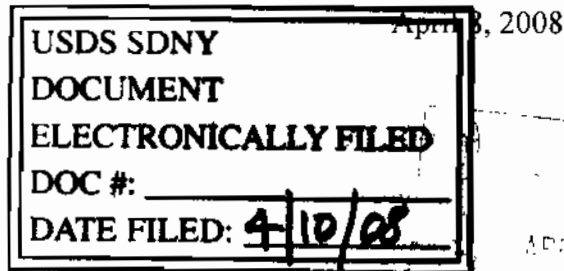


MEMO ENDORSED

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BY HAND

Honorable Lewis A. Kaplan
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007-1312

Re: John Anderson v. The City of New York, et al.
08 CV 1307 (LAK)

Your Honor:

I am the Assistant Corporation Counsel assigned to the defense of the City of New York in the above-referenced matter. Due to the special circumstances set forth herein, I write to respectfully request that the Court grant a brief stay due to issues pertaining to defendant Michael Oliver. For the reasons described below, this application is made by this office without appearing on Detective Oliver's behalf. In addition, this application is made with plaintiff's counsel's consent.

By letter dated March 25, 2008, this office requested that the Court grant defendant City of New York ("City") an extension of time of sixty days, from March 27, 2008, to May 27, 2008, to answer or otherwise respond to the complaint. The enlargement of time was requested so that this office could conduct the necessary investigations regarding the incident underlying the action, including but not limited to, speaking with the officers allegedly involved in the incident. In said letter, the undersigned also requested that the Court grant, *sua sponte*, the same extension to the two individual defendants, Michael Oliver and Undercover Police Officer bearing Shield No. 5732, as the representational process for these individuals was not yet completed. By memorandum endorsed on March 27, 2008, Your Honor granted a thirty day extension, to April 27, 2008, to answer or otherwise respond to the complaint. Accordantly, defendant City will submit an answer or otherwise respond to the complaint by April 27, 2008. In addition, this office is in the process of conducting the representation process for Undercover

Police Officer bearing Shield No. 5732. Absent any unforeseen circumstances, we expect to also answer or otherwise respond to the complaint on behalf of said police officer by April 27, 2008.

However, defendant City respectfully requests that the Court grant a brief extension in this action pertaining to defendant Detective Michael Oliver. Detective Oliver is a defendant in the criminal trial pertaining to the highly publicized death of Sean Bell, who was killed in November 2006 outside a strip club in Queens, New York. The Sean Bell Trial is presently ongoing, and it is unclear what the duration of the criminal trial will be. Thus, although this office has received Detective Oliver's request for legal representation in the instant civil matter, the undersigned has been unable to reach Detective Oliver or to arrange for his interview so that we may conduct the representational process pertaining to him in this matter. See Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)). For this reason, the instant application is made without appearing on Detective Oliver's behalf. However, as Detective Oliver was the plaintiff's arresting officer in the underlying incident, it is necessary that we speak to him prior to answering the complaint on his behalf.

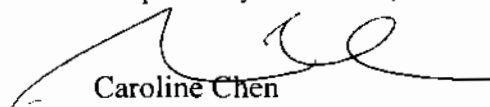
Accordingly, without appearing on his behalf, we respectfully requests that the Court grant defendant Detective Oliver sixty days from today, to June 8, 2008, to answer or respond to the complaint.

In addition, should the Court be inclined to schedule an initial conference in this matter after an answer or response is filed, but prior to the filing of an answer or response on behalf of Detective Oliver, defendant City respectfully requests that only document discovery be conducted as to Detective Oliver until the conclusion of the Sean Bell trial. Plaintiff's counsel similarly consents to this request, as the parties are aware that Detective Oliver's availability will be severely limited, if not completely made impossible, by the criminal trial.

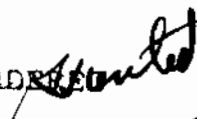
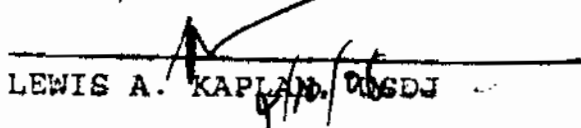
Therefore, for the reasons set forth above, defendant City respectfully requests that the Court grant defendant Detective Michael Oliver, a brief stay until June 8, 2008, to answer or otherwise respond to this complaint. In addition, following an initial conference, defendant City respectfully requests that only document discovery be conducted as to defendant Oliver until the conclusion of the Sean Bell trial.

I thank the Court for its time and consideration of the matters discussed herein.

Respectfully submitted,


Caroline Chen
Assistant Corporation Counsel

cc: Jeffrey A. Rothman, Esq. (by fax and first class mail)
Attorney for Plaintiff
315 Broadway, Suite 200
New York, New York 10007

SO ORDERED 

LEWIS A. KAPLAN *q/p/08SDJ*